

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

NOV 28 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

HUGO RODRIGUEZ, aka Hugo)	No. 05-77175
Rodriguez-Isassi aka Hugo)	
Isassi-Rodriguez,)	Agency No. A19-196-989
)	
Petitioner,)	MEMORANDUM*
)	
v.)	
)	
MICHAEL B. MUKASEY,**)	
Attorney General,)	
)	
Respondent.)	
_____)	

Petition to Review an Order of the
Board of Immigration Appeals

Submitted October 15, 2007***
Pasadena, California

*This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

**Michael B. Mukasey is substituted for his predecessor, Alberto R. Gonzales, as Attorney General of the United States. Fed. R. App. P. 43(c)(2).

***The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

Before: FERNANDEZ and WARDLAW, Circuit Judges, and COLLINS,^{****}
District Judge.

Hugo Rodriguez petitions for review of the decision of the Board of Immigration Appeals, which dismissed his appeal from the immigration judge's denial of his motion to reopen. See 8 C.F.R. § 1003.44(b)–(c); 8 U.S.C. § 1182(c) (1996). We deny the petition.

Rodriguez cannot prevail. He pled guilty to a drug trafficking offense¹ after the enactment of the AEDPA,² and due to his conviction for that aggravated felony,³ he was not eligible for relief under 8 U.S.C. § 1182(c) (1996). See Alvarez-Barajas v. Gonzales, 418 F.3d 1050, 1054 (9th Cir. 2005); see also United States v. Leon-Paz, 340 F.3d 1003, 1005 (9th Cir. 2003).

To the extent that Rodriguez now seeks to attack the determination that he committed an aggravated felony, which was also the controlled substance offense and one of the crimes of moral turpitude with which he was charged, we do not have jurisdiction because he did not exhaust his administrative remedies. See Da

^{****}The Honorable Raner C. Collins, United States District Judge for the District of Arizona, sitting by designation.

¹Nev. Rev. Stat. § 453.337 (possession of controlled substances – including methamphetamine – for sale); United States v. Villa-Lara, 451 F.3d 963, 965 (9th Cir. 2006); United States v. Benitez-Perez, 367 F.3d 1200, 1204 (9th Cir. 2004).

²See Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104–132, 110 Stat. 1214 (Apr. 24, 1996).

³See 8 U.S.C. §§ 1101(a)(43)(B), 1182(c), 1251 (Apr. 24, 1996).

Cruz v. INS, 4 F.3d 721, 722–23 (9th Cir. 1993). In any event, as already noted, it is apparent that he did commit an aggravated felony.

Petition **DENIED**.